

REMARKS

Applicant adds new claims 7-17 more fully to cover various aspects of Applicant's invention as described in the specification. Therefore, claims 1-4 and 7-17 should now be under consideration in the application, with claims 5 and 6 having been withdrawn in reply to an Election/Restriction requirement.

The Examiner rejects claims 1-3 under 35 U.S.C. § 102(e) as being anticipated by Yudasaka, and claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Yudasaka. Also, the Examiner objects to claim 1 due to an informality, and requires that Figs. 1 and 2 be labeled as "Prior Art".

Applicant amends claim 1 to address the informality noted by the Examiner. Applicant respectfully submits that this amendment to claim 1 is merely a clarifying amendment and does not narrow the scope of claim 1. No estoppel is created.

Applicant submits herewith substitute drawing Figs. 1 and 2 labeled "Prior Art".

With regard to the Examiner's prior art rejections, Applicant respectfully traverses these rejections as follows.

Applicant's independent claim 1 provides an organic electroluminescent (EL) display, comprising a unique combination of features, including, *inter alia*, a plurality of insulative mask supporting layers which prevent a metal mask, which is used in formation of the organic EL thin film and a cathode thin film, from being in contact with a pixel portion of a transparent substrate.

Yudasaka does not disclose, teach or suggest such unique combinations of features. In

fact, Yudasaka discloses an active matrix display device where an organic EL film is formed by

an ink jet method, where a mask for forming an organic EL film is not used. That is, the feature of a mask supporting layer is not disclosed, or even remotely suggested, by Yudasaka. Contrary to the Examiner's analysis, Yudasaka's "bank layer", which is provided between the opposing electrode (op) and the data line (sig) to suppress formation of parasitic capacitance in the data line (sig) (see *Id.*, col. 2, lines 35-41, and Figs. 3A-3B), has nothing to do with an insulative mask supporting layers, which prevent a metal mask from being in contact with a pixel portion of a transparent substrate, as recited in Applicant's independent claim 1.

The Examiner indicates that the "functional language ... preventing a metal mask which is used in formation of said organic EL thin film and said cathode thin film, from being in contact with a pixel portion of said transparent substrate" has not been given patentable weight (see Office Action, page 4). Applicant respectfully submits that this approach is contrary to well established legal principles of claim construction. In this regard, MPEP instructs that:

There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used.

See MPEP 2173.05(g).

Thus, Applicant's independent claim 1, and its dependent claims 2-4 (which incorporate all the novel and unobvious features of their base claim), are not anticipated by, and would not have been obvious from, Yudasaka at least for these reasons.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

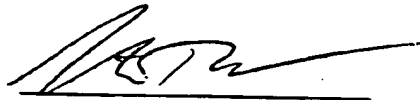
Amendment Under 37 C.F.R. § 1.111
U.S. Appln No. 10/041,668

Atty Dkt No. Q67887

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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